

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Tiffanie Willingham,

Plaintiff,

v.

Brian Howard dba The Tow Truck Company,

Defendant.

Case No. 2:24-cv-01982-JAD-DJA

Order

Pro se Plaintiff Tiffanie Willingham filed an application to proceed *in forma pauperis*. (ECF No. 1). However, Plaintiff's application is missing certain information. The Court thus denies Plaintiff's application without prejudice.

I. Discussion.

Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action "without prepayment of fees or security therefor" if the plaintiff submits a financial affidavit that demonstrates the plaintiff "is unable to pay such fees or give security therefor." The Ninth Circuit has recognized that "there is no formula set forth by statute, regulation, or case law to determine when someone is poor enough to earn [*in forma pauperis*] status." *Escobedo v. Applebees*, 787 F.3d 1226, 1235 (9th Cir. 2015). An applicant need not be destitute to qualify for a waiver of costs and fees, but he must demonstrate that because of his poverty he cannot pay those costs and still provide himself with the necessities of life. *Adkins v. E.I DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

The applicant's affidavit must state the facts regarding the individual's poverty "with some particularity, definiteness and certainty." *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981) (citation omitted). If an individual is unable or unwilling to verify his or her poverty, district courts have the discretion to make a factual inquiry into a plaintiff's financial status and to deny a request to proceed *in forma pauperis*. See, e.g., *Marin v. Hahn*, 271

1 Fed.Appx. 578 (9th Cir. 2008) (finding that the district court did not abuse its discretion by
2 denying the plaintiff's request to proceed *in forma pauperis* because he "failed to verify his
3 poverty adequately"). "Such affidavit must include a complete statement of the plaintiff's
4 personal assets." *Harper v. San Diego City Admin. Bldg.*, No. 16-cv-00768 AJB (BLM), 2016
5 U.S. Dist. LEXIS 192145, at *1 (S.D. Cal. June 9, 2016). Misrepresentation of assets is sufficient
6 grounds for denying an *in forma pauperis* application. *Cf. Kennedy v. Huibregtse*, 831 F.3d 441,
7 443-44 (7th Cir. 2016) (affirming dismissal with prejudice after litigant misrepresented assets on
8 *in forma pauperis* application).

9 Plaintiff's application to proceed *in forma pauperis* is incomplete. Specifically, while
10 Plaintiff explains that she is unemployed and makes no money in pay or wages, she does not
11 answer question 2, which asks whether she receives income from any other source. Plaintiff also
12 leaves questions 4, 5, and 8 blank without explaining whether or not they apply to her.
13 Additionally, Plaintiff claims that her only expense is rent, but does not explain how she pays rent
14 or how she lives considering her claim to have no other bills or regular expenses. Plaintiff also
15 does not explain in response to question 7 how much she contributes to the support of her
16 children. The Court finds that Plaintiff has omitted information from the application. As a result,
17 the Court cannot determine whether Plaintiff qualifies for *in forma pauperis* status.

18 The Court will give Plaintiff one opportunity to file a complete *in forma pauperis*
19 application. The Court further orders that Plaintiff may not respond with a zero or "not
20 applicable" in response to any question without providing an explanation for each of the
21 questions. Plaintiff also may not leave any questions blank. Plaintiff must describe each source
22 of money that she receives, state the amount she received, and what she expects to receive in the
23 future.

24 The Court denies Plaintiff's *in forma pauperis* application without prejudice. The Court
25 gives Plaintiff 30 days to file an updated application. Plaintiff must fully answer all applicable
26 questions and check all applicable boxes. Plaintiff may alternatively pay the filing fee in full.
27 Since the Court denies Plaintiff's application, it does not screen the complaint at this time.
28

1 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*
2 *pauperis* (ECF No. 1) is **denied without prejudice**.

3 **IT IS FURTHER ORDERED** that Plaintiff has until **December 2, 2024** to file an
4 updated application to proceed *in forma pauperis* as specified in this order or pay the filing fee.
5 **Failure to timely comply with this order may result in a recommendation to the district**
6 **judge that this case be dismissed.**

7 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to send Plaintiff
8 a copy of this order and of the Short Form application to proceed *in forma pauperis* and its
9 instructions.¹

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11 DATED: October 31, 2024

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14 DANIEL J. ALBREGTS
15 UNITED STATES MAGISTRATE JUDGE
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28 ¹ This form and its instructions can also be found at <https://www.nvd.uscourts.gov/court-information/forms/> under Code AO 240.